

§ 10.61

49 CFR Subtitle A (10–1–00 Edition)

Subpart G—Exemptions

§ 10.61 General exemptions.

(a) The Assistant Secretary for Administration, with regard to the Investigations Divisions; the Federal Aviation Administrator, with regard to the FAA's Investigative Record System (DOT/FAA 815) and also with regard to the police functions of the National Capital Airport Police; and the Commandant of U.S. Coast Guard, with regard to the Intelligence and Security Division, may exempt from any part of the Act and this part except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i) of the Act, and implementing §§ 10.35, 10.23(a) and (b), 10.21(d)(1) through (6), 10.81, 10.83, and 10.85, any systems of records, or portions thereof, which they maintain which consist wholly of;

(1) Information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status;

(2) Information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or

(3) Reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision.

(b) The requirements (including general notice) of sections 553(b)(1), (2) and (3), and (c) and (e) of title 5, United States Code, will be met by publication in appendix A to this part, which must, at a minimum, specify:

(1) The name of the system; and

(2) The specific provisions of the Act from which the system is to be exempted and the reasons therefor.

(c) Any decision to exempt a system of records under this section is subject to concurrence by the General Counsel.

(d) Any person may petition the Secretary in accordance with the provisions of part 5 of this title, to institute a rulemaking proceeding for the

amendment or repeal of any exemptions established under this section.

[45 FR 8993, Feb. 11, 1980, as amended at 58 FR 67697, Dec. 22, 1993]

§ 10.63 Specific exemptions.

The Secretary or his or her delegatee, in the case of the Office of the Secretary; or the Administrator or his or her delegatee, in the case of an operating administration; or the Inspector General or his or her delegatee, in the case of the Office of Inspector General, may exempt any system of records that is maintained by the Office of the Secretary, an operating administration, or the Office of Inspector General, as the case may be, from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of the Act and implementing §§ 10.23(c); 10.35(b); 10.41; 10.43; 10.45; 10.21(a) and 10.21(d)(6), (7), and (8), under the following conditions:

(a) The system of records must consist of:

(1) Records subject to the provisions of section 552(b)(1) of title 5, United States Code;

(2) Investigatory material compiled for law enforcement purposes, other than material within the scope of § 10.61(a)(2): Provided, however, That if any individual is denied any right, privilege, or benefit to which that individual would otherwise be entitled by Federal law, or for which that individual would otherwise be eligible, as a result of the maintenance of such material, such material is provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, the effective date of the Privacy Act of 1974, under an implied promise that the identity of the source would be held in confidence;

(3) Records maintained in connection with providing protective services to the President of the United States or other individuals pursuant to section 3056 of title 18, United States Code;

(4) Records required by statute to be maintained and used solely as statistical records;